



Implementation of the Environmental Advisory Rules Committee's (ARC) Recommendations

Air Quality Division

October 2012

Recommendation A-2: Mercury Rules: Part 15 Rules (R 336.2501 – R 336.2514)

The federal Mercury Air Toxics Rule (MATS) is being challenged in federal court. Under Michigan Rule 1512(1)(a)(i), companies are required to submit a permit application for each of the affected electric generating units (EGUs) by June 2012 with the earliest compliance plans due in June 2013 (Rule 1503). The DEQ, Air Quality Division (AQD), recognizes the uncertainty this places on the regulated community. The state rules remain in place as this provides a backstop necessary for Michigan to address the statewide fish consumption advisories and the total maximum daily load (TMDL) requirements of the Clean Water Act.

On June 1, 2012, the AQD issued a [variance](#) for the permit application date. Section 5535 (MCL 324.5535 *Suspension of enforcement; reasons; variance*) of Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), allows the DEQ to suspend enforcement of any rule that would be an unreasonable hardship upon the person, provided it is granted by variance and it does not violate the federal Clean Air Act (CAA). Altering this first milestone to coincide with the plan submission is reasonable and does not violate the Clean Air Act. In the future, if the uncertainty with the federal rules remains, additional variances may be granted. The AQD has conducted outreach to the affected sources on this approach.

Recommendation A-4: Rule 206 Process Deadlines

A Request for Rulemaking (RFR) was approved by the Office of Regulatory Reinvention (ORR) on September 17, 2012, for amending R 336.1206.

Recommendation A-7: Rule 801, Rule 803, and State Implementation Plan (ON HOLD)

The federal rule (Cross State Air Pollution Rule) that changed the federal emissions trading program was vacated by the Washington D.C. Court of Appeals (August 23, 2012) so this recommendation cannot be followed through at this time.

Recommendation A-10: Electrostatic Precipitators

The U.S. Environmental Protection Agency, Region 5 is willing to approve recession of R 336.1330. The AQD will initiate rulemaking.

Recommendations A-18: Coke Oven Compliance Date Rule (COMPLETED)

R 336.1349 was rescinded on October 8, 2012.

Recommendation A-20: Putting a Hold on the 18-Month Construction Window for a Permit to Install

An RFR was approved by the ORR on September 17, 2012, for amending R 336.1201.